

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

GRACE CHANDLER,

Plaintiff,

CASE NO. 11-10080

HON. LAWRENCE P. ZATKOFF

v.

CHASE, MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS, and BANK
OF AMERICA,

Defendants.

ORDER DENYING PLAINTIFF'S MOTION FOR RECONSIDERATION

This matter is before the Court on Plaintiff's motion for reconsideration [dkt 24]. Pursuant to E.D. Mich. L.R. 7.1(h)(2), no response is permitted. The Court finds that the facts and legal arguments are adequately presented in Plaintiff's motion and brief such that the decision process would not be significantly aided by oral argument. Therefore, pursuant to E.D. Mich. L.R. 7.1(h)(2), it is hereby ORDERED that the motion be resolved on the brief submitted. For the reasons set forth below, Plaintiff's motion for reconsideration is DENIED.

Local Rule 7.1(h) governs motions for reconsideration, stating that "the court will not grant motions for rehearing or reconsideration that merely present the same issues ruled upon by the court, either expressly or by reasonable implication." E.D. Mich. L.R. 7.1(h)(3). The same subsection further states, "[t]he movant must not only demonstrate a palpable defect by which the court and the parties . . . have been misled but also show that correcting the defect will result in a different disposition of the case." *Id.* A defect is palpable when it is "obvious, clear, unmistakable, manifest, or plain." *Chrysler Realty Co., LLC v. Design Forum Architects, Inc.*, 544 F.Supp. 2d 609, 618

(E.D. Mich. 2008).

Plaintiff challenges the Court's July 13, 2011, order in which the Court dismissed Plaintiff's case. In its July 13, 2011, order, the Court declined to strike Defendants' pleadings based on Plaintiff's arguments that non-attorneys of record were not permitted to file motions. The Court pointed to at least three reasons why Plaintiff's argument failed:

First, BAC appeared on the record on January 18, 2011, when it requested an extension of time to respond to Plaintiff's Complaint. BAC also filed a motion to dismiss with the Court. Both filings were signed by BAC's attorney. BAC's filings indicated that it intended to defend and respond to the claims in Plaintiff's Complaint. *See Lutomiski*, 653 F.2d at 271 (holding that "[t]hough it is true that defendants made no formal appearance and filed no papers, courts now look beyond the presence or absence of such formal actions to examine other evidence of active representation"). Second, Plaintiff fails to support his assertion that "filing a pleading is not sufficient notification of representation" with any authority from this Circuit.

As such, BAC's counsel appeared on the record in this action, and there is no violation of Fed. R. Civ. P. 11. Third, Plaintiff cites to no authority indicating that BAC's attorney's failure to file a formal appearance is also attributable to Chase and MERS's attorneys, requiring the Court to also strike their pleadings. Therefore, Plaintiff's Motion to Strike is denied.

Plaintiff now appears to reassert the same argument and cite to wholly irrelevant case law. As such, Plaintiff's motion for reconsideration fails to state a palpable defect by which the Court has been misled. Rather, Plaintiff's motion presents issues that the Court has already ruled upon. *See* E.D. Mich. L.R. 7.1(h)(3). Further, the instant motion indicates only Plaintiff's disagreement with the Court's ruling. Such disagreement is not a proper premise on which to base a motion for reconsideration. *See, e.g., Simmons v. Caruso*, No. 08-cv-14546, 2009 WL 1506851, at *1 (E.D. Mich. May 28, 2009); *Cowan v. Stovall*, No. 2:06-CV-13846, 2008 WL 4998267, at *2 (E.D. Mich. Nov. 21, 2008).

Accordingly, IT IS HEREBY ORDERED that Plaintiff's motion for reconsideration [dkt 24] is DENIED.

IT IS SO ORDERED.

S/Lawrence P. Zatkoff
LAWRENCE P. ZATKOFF
UNITED STATES DISTRICT JUDGE

Dated: August 29, 2011

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of this Order was served upon the attorneys of record by electronic or U.S. mail on August 29, 2011.

S/Marie E. Verlinde
Case Manager
(810) 984-3290